UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,550	01/08/2002	Jan Trebesius	9771-190US	4686

79526   7590   03/18/2011
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EXAMINER
THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
3627	

NOTIFICATION DATE	DELIVERY MODE
03/18/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

international@dblaw.com

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>17 February 2011</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Marissa Thein/
Primary Examiner, Art Unit 3627

Continuation of 11. does NOT place the application in condition for allowance because: The arguments are not persuasive. For example, Applicant remarks that Otsuka does not teach, suggest, or motivate "a fax is generated from said e-mail by said system or a connected system or a connected fax server, and whereby said system is adapted to connect an output device or display device comprising a fax machine at the food outlets to the first computer system, and whereby said system or a connected system or a connected fax server is adapted to transmit said fax to said fax machine".

Examiner does not agree. The combination of Cupps and Otsuka teaches and suggests the recitation above. Cupps discloses a consumer can place an order from the menu of a selected restaurant which is transferred to the World Wide Waiter server. The World Wide Waiter server then emails the order over the Internet to the restaurant. (Col. 1, lines 21-24) Furthermore, Cupps discloses the use of email messaging as a communication medium (col. 11, lines 28-31). The Examiner then turns to Otsuka to teach and sugggest the recitation above. Otsuka teaches an internet facsimile transmission via the Internet when an e-mail address is designated as an address (col. 2, lines 57-60). Otsuka discloses a facsimile device that corresponds via an internet which has an improve rate of image information arriving at a receiver that minimizes the operations required by the user (col. 3, lines 46-51). The facsimile apparatus and computer, on the receiver side, are connected to a telephone exchange. The telephone exchange is connected to an internet via an internet service provider. (Col. 9, lines 53-58) Otsuka further teaches sending an email which is received by the Internet route, wherein the email has converted into an image data in a facsimile format. The data which has been converted into image data of the facsimile format can be printed on recording medium and is capable of being ouputed by the printer or displayed on a display on the personal computer. (Col. 12, lines 22-39)

Such internet facsimile transmission via the Internet when an e-mail address is designated as an address; facsimile apparatus and computer, on the receiver side, are connected to a telephone exchange, wherein the telephone exchange is connected to an internet via an internet service provider; and sending an email which is received by the Internet route, wherein the email has converted into an image data in a facsimile format and the data which has been converted into image data of the facsimile format can be printed on recording medium and is capable of being ouputed by the printer or displayed on a display on the personal computer are considered "a fax is generated from said e-mail by said system or a connected system or a connected fax server, and whereby said system is adapted to connect an output device or display device comprising a fax machine at the food outlets to the first computer system, and whereby said system or a connected system or a connected fax server is adapted to transmit said fax to said fax machine".